NOTES

THE INDUSTRIAL CONFERENCE

The Industrial Conference called by President Wilson on December 1 made public its final report March 20, in which it recommends joint organizations of employers and workers as the most promising method of attacking problems arising from the relationships in industry. Unlike its predecessor, the ill-fated first conference which split when the Gompers resolution on collective bargaining was introduced, this conference engineered its course more wisely and seems to have been more free from outside instructions, less suspicious by nature, and somewhat less shackled by petty antagonisms. The fact that it did not purport to represent distinct warring interests may be the explanation in part. The results, however, are more happy and, although there may be many differences as to the advisability of the program suggested and a feeling that the conference has adopted a safety-first attitude, the dissenter will recognize that the delegates acted in good faith and that the findings were reached upon an intellectual basis and as such are worthy of respect, if not of acceptance.

The system of settlement recommended by the conference consists of a National Industrial Board, local regional conferences and boards of inquiry to be established by the President and Congress as follows:

1. The parties to the dispute may voluntarily submit their differences for settlement to a board, known as a Regional Adjustment Conference. This board consists of four representatives selected by the parties, and four others in their industry chosen by them and familiar with their problems. The board is presided over by a trained government official, the regional chairman, who acts as a conciliator. If a unanimous agreement is reached, it results in a collective bargain having the same effect as if reached by joint organization in the shop.

2. If the Regional Conference fails to agree unanimously, the matter, with certain restrictions, goes, under the agreement of submission, to the

National Industrial Board, unless the parties prefer the decision of an umpire selected by them.

3. The voluntary submission to a Regional Adjustment Conference carries with it an agreement by both parties that there shall be no interference with production pending the processes of adjustment.

4. If the parties, or either of them, refuse voluntarily to submit the dispute to the processes of the plan of adjustment, a Regional Board of Inquiry is formed by the regional chairman, of two employers and two employees from the industry, and not parties to the dispute. This Board has the right, under proper safeguards, to subpoena witnesses and records, and the duty to publish its findings as a guide to public opinion. Either of the parties at conflict may join the Board of Inquiry on giving an undertaking that, so far as its side is concerned, it will agree to submit its contention to a Regional Adjustment Conference, and, if both join, a Regional Adjustment Conference is automatically created.

5. The National Industrial Board in Washington has general oversight of the working of the plan.

6. The plan is applicable also to public utilities, but in such cases, the government agency having power to regulate the service, has two representatives in the Adjustment Conference. Provision is made for prompt report of its findings to the rate-regulating body.

The Conference makes no recommendation of a plan to cover steam railroads and other carriers, for which legislation has recently been enacted by Congress.

7. The plan provides machinery for prompt and fair adjustment of wages and working conditions of government employees. It is especially necessary for this class of employees, who should not be permitted to strike.

8. The plan involves no penalties other than those imposed by public opinion. It does not impose compulsory arbitration. It does not deny the right to strike. It does not submit to arbitration the policy of the "closed" or "open" shop.

The plan is national in scope and operation, yet it is decentralized. It is different from anything in operation elsewhere. It is based upon American experience and is designed to meet American conditions. It employs no legal authority except the right of inquiry. Its basic idea is stimulation to settlement of differences by the parties in conflict, and the enlistment of public opinion toward enforcing that method of settlement.

Naturally a plan so loosely conceived and so indefinitely endowed with authority will fail to satisfy military temperaments: those who believe and preach, and those who do not state but who nevertheless believe it is time to decide definitely which is going to run this country, labor or capital. It will not meet with

the approval of any of the organized or unorganized forces of labor who want a showdown between labor and capital. It cannot appease the desires of any person who seeks to approach the industrial problem from the standpoint of the strategy of any side, cult, or ism. But the conference is not to be measured by the extremes of any side; these groups may safely be left out of consideration in the discussion of the merits of the plan. A more satisfactory measurement can be found only by seeking for a yardstick which is somewhat less likely to be warped, although in a society suffering from illiteracy in industrial matters to the degree that ours does any system of measurement is certain to be faulty.

A study of the general plan reveals certain definite points of contrast in the method of approach to that which has already been suggested as a means to meet the problem of industrial disputes. When the President announced the membership of the second conference, the common feeling was that the body was not representative and could not decide for the parties in conflict. Seemingly the conference appreciated the fact that it lacked the credentials to act as attorney for either side and hence devised machinery with the dominant idea of getting the real parties together to settle the matter themselves. The position thus taken is in the middle of the road. It doesn't leave the situation with the confidence of the *Commercial and Financial Chronicle* that "employers and employees are steadily coming together of themselves and by themselves," and hence "take off the meddling hands and keep them off," although that attitude has many supporters at this time, due in part to the failures of the government in the war period to guide and control with complete success. It does not adopt the idea expressed in recent Kansas legislation of deciding, if necessary, the questions at issue for the parties and placing all who will not be reconciled in jail, whether there are enough jails to hold them or not. The strike, the lockout, picketing, boycotting, blacklisting—none of these are prohibited. No distinction is made between union and non-union men. Nor is there any effort to force the acceptance of any findings upon either party to the

conflict. Legal compulsion is absent. The conference suggests machinery merely to get the parties together, exercising no physical compulsion or obedience to any opinions, findings, or agreements, but relying upon wisdom, or at least a settlement, to come out of discussion, with no sanction pushing the parties to agreement other than that arising out of public opinion which will have an opportunity to read the facts.[1]

Inasmuch as the voluntary principle dominates all, in order to achieve to any great degree, the parties must be induced to bring their case before the machinery suggested. This is evident. And the conference has worked out a most commendable method to gain this end. Unanimity being necessary, there is little to be lost by either party in submitting disputes to the tribunals created and, once submitted, the purpose of the conference is accomplished; the parties are brought together. If one side submits its case, it seems reasonable that the other will join, for, although there is no penalty, the party which refuses will have to justify its course before the public, oftentimes a difficult task. By providing that neither party is bound to obey any finding of the regional tribunals which is not unanimous, and extending the right of appeal, another spur is given the principle of submittal.

Whether the ease of appeal to governmental machinery will undermine collective bargaining of the customary type is a question. It would seem desirable that as many of the conflicts be settled outside as possible; but it is a question if employers and unions are as likely to reach an agreement when both parties are conscious at all times of the ability to appeal. May not a host of trivial questions be brought before the machinery created which otherwise would be settled outside? The answer to the question depends, probably, upon the type of men who constitute the local boards, and the skill, foresight, and wisdom of those who guide the plan nationally. No one can study the problem of conciliation and trade agreements without a profound respect for the play of personalities; oftentimes both the mode and terms of the settlement are as much a question of men as of machinery, or the particular

[1] Because of the moral persuasion which lies in an informed public opinion, William L. Chenery has made the exultant comment, "The public has been effectively enfranchised in industrial questions."—*Survey*, March 27, 1920, p. 806.

wrongs, actual or imagined, of which the parties complain. Given a man in control like ex-Commissioner Charles R. Neil, who will estimate lightly the possibilities of even this imperfect instrument to project its influence toward settlement beyond the actual operation of the boards as such to the table where capital and labor meet in daily parley?[1] Perhaps in practice there will be a growing reluctance to let the matter pass into the hands of the government; certainly acquaintance and settlement of the first and then the second dispute will build within the two a strong tradition against appealing to the regional conferences.

As might be expected Mr. Gompers has announced his opposition to the plan suggested by the conference. After stating that employer and employee have gotten along nicely in all cases where the employer has decided not to be an autocrat, and where labor is unorganized no machinery can insure industrial justice, he brings forth the argument that the machinery created is built on the basis of settling disputes shop by shop. This fact, coupled with employee representation, which the conference recommends, Gompers fears will lead toward building company unions, separatting the worker from his fellows in the industry. The conference recognizes the fact of organized labor, but to those who do not mince words themselves and who demand that others speak as boldly, the phrasing of the conference is mild; possibly it might have spoken of settlement on an industrial basis in somewhat stronger language. It declares for collective bargaining as a matter of principle, and if it had had the courage to recognize trade unionism as the effective instrument of collective bargaining, it might have lessened the anxiety of some of its critics.

From the standpoint of assuring labor, also, it is unfortunate that the report did not give more space to employee representation by expanding the argument contained in one small paragraph on page 12 of the report, "Some industries have extended the principles of employee representation beyond the individual plant. The voluntary joint councils which have thus been set up in the

[1] John R. Commons criticized the preliminary report of the Conference in the *New York Evening Post*, stating that it was too elaborate and too political. "The President, Cabinet, and Senate cannot select competent conciliators."

clothing industry, in the printing trade, and elsewhere, are fruitful experiments in industrial organization." Herein was another opportunity to meet Gompers' objection. A more detailed statement of the experience of voluntary joint councils might have pointed out the need of representation to meet the problems of the individual shop and the impelling need of organization to meet the problems of the market, particularly when the market is a highly competitive one. Give labor an honest opportunity to organize within a shop and you make possible training, experience, and ability to become unionized. The employer who hands out a so-called representation plan with adequate safeguards to make it form rather than substance will hinder, of course, this achievement. But even those who are not acting in good faith are dealing with uncertain elements and those who are will welcome, possibly, trade organization when they seek to make concessions but find themselves restrained by the practices of competing firms which must be met in the market. The fact that the conference report does not contemplate the shop-committee method of settling disputes can be discovered by a studious reader; something would have been gained, probably, by making it so evident that he who runs might also read that particular fact.[1]

To many the plan will appear commonplace, incomplete. Before the machinery provided begins to function, it is necessary for matters to come to a crisis. There is no provision for handling causes which may lead up to difficulty. It deals with effects; seeks solely to get the parties together for one last effort to find

[1] Felix Frankfurter has pointed out a patent case of side-stepping which is not developed here. The whole subject of what the law is and what the law should be in relation to labor is ignored. "Largely because of the attitude of the law," Mr. Frankfurter says, "trade unions have become fighting organizations and industrial peace has been thwarted."—*New Republic*, April 7, 1920, p. 180.

It is not difficult to perceive why the conference proved so nimble of foot. The failure of the first conference emphasized in the minds of the members what disagreement might entail. Unanimity was thought necessary; hence a safe document which reads largely, at least on the surface, as an interpretation of what is, with certain machinery to prevent it from expressing itself through the mediums of strikes and lockouts. No ammunition is provided for either side by which it can bombard the other. Mr. Frankfurter wanted some Big Berthas; he believes that "truth as to controversial problems cannot be smuggled in through an innocent-looking Trojan horse!" And who will say that he is not right?

out if their differences are real or imaginary. Conceivably disputes may arise because of matters lying beyond the competence of either of the two parties. Who will say that the cost of living may not be the particularly irritating factor in any dispute? Yet the organization suggested is not in any way to study the fact, to make recommendations regarding legislation, or in any way to investigate the industrial unrest; it is limited to preventing unrest from uttering itself in interrupted production. A grant of power to carry on a constant study of industry, or the extension of the work by the Department of Labor, coupled with the power to recommend legislation to Congress much like that now commonly given to public-utility and minimum-wage commissions would seem to be a desirable addition to the plan.

Nevertheless, despite its side-stepping, its conservatism, and its imperfections, the suggestions of the Industrial Conference are worth while. Progress does not always come by jumps; rather it may be slow in gait and humble in pretence and, although the desire to be unanimous led to a finished result which has about as much daring as a political platform, yet the document has merit.

Apart from the plan of settling industrial disputes, the report includes brief discussions and recommendations in regard to collective bargaining, joint organization through employees' representation, hours of labor, women in industry, child labor, housing, wages, profit-sharing and gain-sharing, thrift agencies, inflation and the high cost of living, public employees, agriculture, unemployment and part-time employment, and public employment clearing-houses. It does not try to argue that the interests of labor and capital are identical. On the whole, they are not. Nothing is to be gained by shrinking from the fact that the interests of particular groups of workers are opposed not only to the interests of particular employers but sometimes to the welfare of certain other labor groups, just as the interests of a particular employer may conflict not only with those of labor but with those of other employers. And yet under our system of machine production, with its highly differentiated tasks, the extremes of social environment and the juxtaposition of unequal material holdings

tend to develop and intensify the belief that the interests of the employer and the worker are opposed, not only in some, but in all fields. Something may be gained through attempting, therefore, as the committee suggests, to organize and direct within the field where the interests of the two coincide. Intelligent emphasis on particular points is needed rather than smearing generalities. The report indicates, although somewhat timidly, the path.

Particularly, the discussion of employee representation will be helpful if business men can appreciate the significance of the dominant idea, "but representation is a definite principle and not a form," and "representatives must be selected by the employees with absolute freedom." Conceived with the idea of settling petty grievances, of deciding who shall lead the company glee club, and similar weighty questions, employee representation offers no hope for the future. Fad, fancy, imitation, advertising value, philanthropy, or altruism will never put it on a sound basis. Nor will it succeed if it is instituted to prevent the introduction of unionism or is considered by either side to be for that purpose, whether true or not. But conceived in the spirit of participation, that which is a right by nature and not a gift, a common enterprise looking toward getting together to study problems patiently, seriously, and open-mindedly, it is not without promise as a means of eliminating the thousands and thousands of small points of daily friction which in the aggregate constitute a real problem.

Desirable as the published discussions may be, the more important result of the conferences is that certain definite machinery has been recommended, and this machinery, unfortunately seems to have many factors playing against its adoption. Not only is Congress unwilling to co-operate with the present administration, but the failure of the first conference to reach an agreement, the dissipation of public confidence that went with it, and the growing callousness of a public which has passed through both a steel strike and a coal strike and now doesn't want to be bothered, make it difficult to focus attention and force an issue. Also, the clamorous demand for a reduction of the number of governmental employees with slight regard to the services

rendered by the particular individual or group is another factor with which to reckon. The plan has little emotional appeal in it; there are few points in it which thrill. Apparently none of the parties concerned are prepared to lobby for it, and those who have vested interests in what is, may be expected to politely ignore. The drive can come only from the understanding that, although it is a modest instrument imperfectly built, and although it doesn't say that adoption means the end of industrial warfare and the coming of industrial peace, yet it is a safe, sane, and not reactionary step to take at this time. It possesses some possibilities, if administered intelligently.

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